

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated April 1, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-2, 5-14 are pending in the Application. Claims 1, 5, and 11 are independent claims. Claims 3-4 are canceled herein, without prejudice. The Applicants respectfully reserve the right to reintroduce subject matter deleted herein, either at a later time during the prosecution of this application or any continuing applications.

By means of the present amendment, the claims are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include changing "characterized in that" to --wherein--, correcting typographical errors, amending dependent claims to begin with "The" as opposed to "A" as well as correcting certain informalities noted upon review of the claims. By these amendments, the claims are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject

matter deleted herein at a later time during the prosecution of this application or continuing applications.

Applicants thank the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority documents.

In the Office Action, claims 1-9 are rejected under 35 U.S.C. §102(b) over U.S. Patent Publication No. 2002/0013615 to Haim ("Haim"). Claim 10 is rejected under 35 U.S.C. §103(a) over Haim in view of U.S. Patent Publication No. 2004/0091543 to Bell ("Bell"). Claims 11-14 appear to be rejected under 35 U.S.C. §103(a) over Haim.

These rejections are respectfully traversed. It is respectfully submitted that claims 1-2, 5-14 are allowable over Haim alone and in view of Bell for at least the following reasons.

Haim describes a catheter which includes at least one position sensor, which generates signals responsive to the position of the catheter within the heart, and a drug delivery device, which administers a desired dose of a therapeutic drug at the site determined responsive to the signals from the position sensor (see, Haim, abstract and paragraphs [0020] and [0038], cited in the Office Action). So, while Haim does show delivery of a desired dose under control of the position sensor, it is respectfully

submitted that Haim does not provide any discussion, whatsoever, regarding an eventuality of the catheter slipping out of the site at which the therapeutic drug is delivered while the therapeutic drug is delivered.

It is respectfully submitted that the catheter apparatus of claim 1 is not anticipated or made obvious by the teachings of Haim. For example, Haim does not disclose or suggest, a catheter apparatus that amongst other patentable elements, comprises (illustrative emphasis added) a monitoring unit "a monitor connected to the active locator and the pump, wherein the monitor is configured to detect emergence of the catheter from the aneurysm during the injection of the filling material into the aneurysm, and configured to stop the supply of the filling material in response to the detected emergence" as recited in claim 1 and as similarly recited in claim 5.

With regard to independent claim 11, the Office Action admits that Haim does not disclose the "automatically stopping" act but points to paragraph [0112] of Haim as making this obvious. The Applicants disagree. Contrary to the Office Action's interpretation, in paragraph [0112], Haim describes merely verifying that the heart tissue is ischemic but still viable before administering the drug at the location. And for listed reasons

describes preventing administration of the drug at locations in the heart that do not meet the criteria of viability. In the cited paragraph, the term viability refers specifically to the ischemic heart tissue. There is no teaching, disclosure, or suggestion in paragraph [0112] and elsewhere in Haim of "automatically stopping the supply of the plugging material to the catheter if emergence of the catheter from the aneurysm is detected" as recited in claim 11.

Bell is introduced for allegedly showing elements of dependent claim 11 and as such, does nothing to cure the deficiencies of Haim.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 5 and 11 are patentable over Haim and notice to this effect is earnestly solicited. Claims 2, 6-10 and 12-14 respectively depend from one of claims 1, 5 and 11 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the

presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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July 2, 2009

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July 8, 2009